

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.8094 of 2007

Between:

M/s.Advanced Telematics Limited.

.. PETITIONER

and

The Employees State Insurance Corporation.

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RESPONDENTS

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ORDER:

Heard the learned counsel appearing for the petitioner as well as

Sri B.G.Ravinder Reddy, the learned counsel appearing for the respondents.

It is stated that one M/s.Intel Systems and Sensors Private Limited, was merged with the petitioner company after amalgamation passed by this Court. The said Intel Systems and Sensors Private Limited is due and payable a sum of Rs.45,037/- towards ESI contribution.

It is the case of the petitioner that it is not liable to pay the dues, which are payable by the amalgamated company.

I am not inclined to accept the said contention.

Section 93-A of the Employees State Insurance Act, 1948 (for short "the Act") reads thus:

"Where an employer, in relation to a factory or establishment, transfers that factory or establishment in whole or in part, by sale, gift, lease or licence or in any other manner whatsoever, the employer and the person to whom the factory or establishment is so transferred shall jointly and severally be liable to pay the amount due in respect of any contribution or any other amount payable under this Act in respect of the periods upto the date of such transfer."

Therefore, as per Section 93-A of the Act, the petitioner is also equally liable to pay the said amount. However, if there is any dispute, it is open for the petitioner to approach E.S.I. Court under Section 75 of the Act, to resolve the dispute.

Having regard to the facts and circumstances of the case, the petitioner is permitted to approach E.S.I.Court for resolution of the dispute and if the petitioner approaches the ESI Court, the ESI Court shall consider and dispose of the case, subject to the condition that the petitioner deposits half of the demanded amount i.e., Rs.22,518/- (Rupees twenty two thousand five hundred and eighteen only) pursuant to the demand notice, dated 13-02-2007, within four weeks from today with the

2nd respondent. If the said amount is paid, there shall be stay of operation of the impugned notice, pending disposal of the ESI Case before the ESI Court.

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

19-04-2007

Prv